

**REGINA ~V~ RAY KEPANI**

**High Court of Solomon Islands  
(Palmer ACJ)**

**Criminal Case No. 138 of 2000**

**Judgment:                May 9, 2002**  
**Sentence:                May 9, 2002**

*F. Mwanasalua (Director of Public Prosecutions) for the Crown  
Defendant (Ray Kepani) in person*

**Palmer ACJ:** The Accused has been convicted of the offences of simple larceny and two counts of forgery.

He is a first offender, married and so has a family. Although the accused did not say anything in his mitigation I noted he shed tears when his judgment was read to him. I take that to be indicative of remorse, that he realized that what he had done was wrong and so was sorry or that he regretted what he had done although he did not say so in mitigation. But his tears manifest that intention and I take that into his account.

I do not give any credit for any guilty plea.

I note that he was in a position of trust. This was brought out quite clear in the evidence of the Census Commissioner and the Accountant Selesa Alepio. He worked with them as a driver and security guard for the office at night. This was a position of trust. They trusted him enough to drive them around and to look after the security of the building and its contents. They trusted him enough to be in their offices and to allow him to cash cheques and collect money for the office. They were so trusting of him that they did not notice that the cheques were missing until several days later, but that was only after they had been cashed by the accused.

The amount taken was also substantial, a total of \$113,000-00 and no recovery made it seems of the money, a very sad and bad state of affairs. There just appears to be no sense of accountability until arrest, charge and trial of this accused in this court. He has not it seems sought to make amends or offered to make repayments of the money stolen.

Further the money stolen was money given to the Census Office from a Project funded by the European Union. It was not even money provided by the Government of Solomon Islands, as the Government did not even have the money to be able to fund the National Census in the country. As a result of this theft, some people perhaps Census Enumerators may have been deprived of their rightful money or others inconvenienced through the selfish actions of this accused.

I have considered sentences in other cases similar to this. In *Magu v. Regina (1980/1981) SILR 40*, the accused was convicted and sentenced to imprisonment for 18 months on two charges of forgery and two charges of uttering arising out of the misuse of cheques handled in the course of his employment. The total proceeds of the crimes committed amounted to only \$377.83. The Court Appeal took into account other cases in which similar offences were committed ranging from three years to 18 months. Those cases which involved substantially larger sums and were in positions of trust like employees, bank tellers etc. received sentences of up to three years. One of

the cases in which three years was given involved the case of Daniel Nahusu who made many forgeries and involved total defaults of some thousands.

Another case to be compared is the case of *John Ini Ela v. Reginam (1988/89) SILR 134* in which the accused was convicted and sentenced to four years imprisonment for offences of receiving and false pretences. The court took into account the fact that he was the ringleader in the offences committed and that he had a string of previous convictions.

This case is somewhat different in that it appears to be a one of offence. Unfortunately it involved a substantial sum of money, \$113,000-00. The accused took advantage too it seems of the fact that the money involved was part of a Project funded by the European Union and perhaps deceived himself into thinking that he could help himself and nobody will notice. I note he did not have previous convictions and that he cooperated in turning up to his court hearings. At the same time I bear in mind that in order for him to be able to successfully forge the signatures of his working colleagues, he would have taken time to practice over and over again the signatures of his colleagues. Further there has just been no accountability of the money stolen and no attempt it seems to even repay that sum of money. I also take into account the somewhat long lapse of time it has taken in eventually successfully disposing of this case today. However I do bear in mind that this has been due partly to the fact that the accused himself did not get the assistance of a lawyer earlier enough until this court simply decided not give further time as it was becoming a lame excuse and an abuse of the process of the court.

The offence of simple larceny has a maximum of five years imprisonment. The offence of forgery of a valuable security is a more serious offence attracting a maximum sentence of 14 years.

Taking everything into account, I am satisfied a sentence of three years is well within the range of these kind of offences. Sentenced to three years in respect of each count to be made concurrent.

**THE COURT.**